

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)			
	)	IC Nos.	01-S51004	02-B0007064
WorldCom	)		01-S51336	02-P28634
	)		01-S52286	02-S66715
Complaints Regarding Unauthorized	)		01-S53891	02-S66752
Change Of Subscribers'	)		01-S53936	02-S67037
Telecommunications Carriers	)		01-S55039	02-S67110
			01-S56693	02-S67586
			01-S57750	02-S67663
			01-S59612	02-S67802
			01-S62717	02-S67803
			01-S62922	02-S69446
			01-S62930	02-S69451
			01-S62998	02-S71634
			01-S63048	02-S71654
			01-S64396	02-S72008
			01-S65328	02-S72046
			01-S65775	02-S72941
			01-S66005	02-S73282
			01-S66132	02-S73377
			01-S66346	02-S73436

**ORDER**

**Adopted: January 29, 2004**

**Released: January 30, 2004**

By the Acting Deputy Chief, Policy Division, Consumer & Governmental Affairs Bureau:

1. In this Order, we consider the complaints filed by Complainants<sup>1</sup> alleging that WorldCom changed Complainants' telecommunications service providers without obtaining authorization and verification from Complainants in violation of the Commission's rules.<sup>2</sup> We conclude that WorldCom's actions did result in an unauthorized change in Complainants' telecommunications service providers and we grant Complainants' complaints.

2. In December 1998, the Commission released the *Section 258 Order* in which it adopted rules to implement Section 258 of the Communications Act of 1934 (Act), as amended

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<sup>1</sup> See Appendix A.

<sup>2</sup> See 47 C.F.R. §§ 64.1100 – 64.1190.

by the Telecommunications Act of 1996 (1996 Act).<sup>3</sup> Section 258 prohibits the practice of “slamming,” the submission or execution of an unauthorized change in a subscriber’s selection of a provider of telephone exchange service or telephone toll service.<sup>4</sup> In the *Section 258 Order*, the Commission adopted aggressive new rules designed to take the profit out of slamming, broadened the scope of the slamming rules to encompass all carriers, and modified its existing requirements for the authorization and verification of preferred carrier changes. The rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.<sup>5</sup> Pursuant to Section 258, carriers are absolutely barred from changing a customer’s preferred local or long distance carrier without first complying with one of the Commission’s verification procedures.<sup>6</sup> Specifically, a carrier must: (1) obtain the subscriber’s written or electronically signed authorization in a format that meets the requirements of Section 64.1130 authorization; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber’s order.<sup>7</sup>

3. The Commission also has adopted liability rules. These rules require the carrier to absolve the subscriber where the subscriber has not paid his or her bill. In that context, if the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change.<sup>8</sup> Where the subscriber has paid charges to the unauthorized

<sup>3</sup> 47 U.S.C. § 258(a); Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers’ Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rule Making, 14 FCC Rcd 1508 (1998) (*Section 258 Order*), *stayed in part*, *WorldCom WorldCom v. FCC*, No. 99-1125 (D.C. Cir. May 18, 1999); First Order on Reconsideration, 15 FCC Rcd 8158 (2000); *stay lifted*, *WorldCom WorldCom v. FCC*, No. 99-1125 (D.C. Cir. June 27, 2000); Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996 (2000), Errata, DA No. 00-2163 (rel. Sept. 25, 2000), Erratum, DA No. 00-2192 (rel. Oct. 4, 2000), Order, FCC 01-67 (rel. Feb. 22, 2001); Third Order on Reconsideration and Second Further Notice of Proposed Rule Making, 18 FCC Rcd 5099 (2003); Order, FCC 03-116, (rel. May 23, 2003). Prior to the adoption of Section 258, the Commission had taken various steps to address the slamming problem. *See, e.g., Policies and Rules Concerning Unauthorized Changes of Consumers’ Long Distance Carriers*, CC Docket No. 94-129, Report and Order, 10 FCC Rcd 9560 (1995), *stayed in part*, 11 FCC Rcd 856 (1995); *Policies and Rules Concerning Changing Long Distance Carriers*, CC Docket No. 91-64, 7 FCC Rcd 1038 (1992), *reconsideration denied*, 8 FCC Rcd 3215 (1993); Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I, 101 F.C.C.2d 911, 101 F.C.C.2d 935, *reconsideration denied*, 102 F.C.C.2d 503 (1985).

<sup>4</sup> 47 U.S.C. § 258(a).

<sup>5</sup> *See* 47 C.F.R. § 64.1120.

<sup>6</sup> 47 U.S.C. § 258(a).

<sup>7</sup> *See* 47 C.F.R. § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. 47 C.F.R. § 64.1130.

<sup>8</sup> *See* 47 C.F.R. §§ 64.1140, 64.1160. Any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change. *Id.*

carrier, the Commission's rules require that the unauthorized carrier pay 150% of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.<sup>9</sup> Carriers should note that our actions in this order do not preclude the Commission from taking additional action, if warranted, pursuant to Section 503 of the Act.<sup>10</sup>

4. We received Complainants' complaints, alleging that Complainants' telecommunications service providers were changed to WorldCom without Complainants' authorizations. Pursuant to Sections 1.719 and 64.1150 of our rules,<sup>11</sup> we notified WorldCom of the complaints and WorldCom responded.<sup>12</sup> WorldCom states that Complainants authorized the change in their services through third party verification. WorldCom's third party verifiers, however, failed to obtain separate authorizations for each service sold as required by our rules.<sup>13</sup> We find that WorldCom has failed to produce clear and convincing evidence that Complainants authorized a carrier change.<sup>14</sup> Therefore, we find that WorldCom's actions resulted in an unauthorized change in Complainants' telecommunications service providers and we discuss WorldCom's liability below.<sup>15</sup>

5. Pursuant to Section 64.1170(b) our rules, WorldCom must forward to Complainants' authorized carriers an amount equal to 150% of all charges paid by the subscriber to WorldCom.<sup>16</sup> Therefore, WorldCom must forward to Complainants' authorized carriers 150% of the amount, along with copies of any telephone bills issued from the company to each Complainant.<sup>17</sup> Within ten days of receipt of this amount, Complainants' authorized carriers shall provide a refund or credit to each Complainant in the amount of 50% of all charges paid by Complainants to WorldCom. Complainants have the option of asking Complainants' authorized carriers to re-rate WorldCom's charges based on Complainants' authorized carriers' rates and,

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<sup>9</sup> See 47 C.F.R. §§ 64.1140, 64.1170.

<sup>10</sup> See 47 U.S.C. § 503.

<sup>11</sup> 47 C.F.R. § 1.719 (Commission procedure for informal complaints filed pursuant to Section 258 of the Act); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

<sup>12</sup> See Appendix A.

<sup>13</sup> See 47 C.F.R. 64.1120(b).

<sup>14</sup> See 47 C.F.R. § 64.1150(d).

<sup>15</sup> If Complainant is unsatisfied with the resolution of this complaint, Complainant may file a formal complaint with the Commission pursuant to Section 1.721 of the Commission's rules, 47 C.F.R. § 1.721. Such filing will be deemed to relate back to the filing date of Complainants' informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to Complainant. See 47 C.F.R. § 1.719.

<sup>16</sup> 47 C.F.R. § 64.1170(b).

<sup>17</sup> *Id.*

on behalf of Complainants, seek from WorldCom, any re-rated amount exceeding 50% of all charges paid by Complainants to WorldCom. Complainants' authorized carriers must also send a notice to the Commission, referencing this Order, stating that it has given a refund or credit to Complainants.<sup>18</sup> If Complainants' authorized carriers have not received the reimbursement required from WorldCom within 45 days of the release of this Order, Complainants' authorized carriers must notify the Commission and Complainants accordingly. Complainants' authorized carriers also must notify the Complainants of his or her right to pursue a claim against WorldCom for a refund of all charges paid to WorldCom.<sup>19</sup>

6. Accordingly, IT IS ORDERED that, pursuant to Section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and Sections 0.141, 0.361 and 1.719 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.719, the complaints filed by Complainants against WorldCom ARE GRANTED.

7. IT IS FURTHER ORDERED that, pursuant to Section 64.1170(b) of the Commission's rules, 47 C.F.R. § 64.1170(b), that WorldCom must forward to Complainants' authorized carriers an amount equal to 150% of all charges paid by the subscriber along with copies of any telephone bills issued from the company to the Complainants within ten (10) days of the release of this order.

8. IT IS FURTHER ORDERED that this Order is effective upon release.

#### FEDERAL COMMUNICATIONS COMMISSION

Nancy A. Stevenson, Acting Deputy Chief  
Policy Division  
Consumer & Governmental Affairs Bureau

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<sup>18</sup> See 47 C.F.R. § 64.1170(c).

<sup>19</sup> See 47 C.F.R. § 64.1170(e).

INFORMAL COMPLAINT NUMBER	DATE OF COMPLAINT	DATE OF CARRIER RESPONSE
01-S51004	April 30, 2001	June 1, 2001
01-S51336	April 10, 2001	June 19, 2001
01-S52286	June 7, 2001	July 11, 2001
01-S53891	June 14, 2001	July 16, 2001
01-S53936	April 20, 2001	July 16, 2001
01-S55039	May 29, 2001	July 24, 2001
01-S56693	July 19, 2001	August 21, 2001
01-S57750	August 12, 2001	September 3, 2001
01-S62717	January 2, 2002	October 30, 2001
01-S62922	August 31, 2001	October 30, 2001
01-S62930	September 20, 2001	October 30, 2001
01-S62998	November 23, 2001	October 30, 2001
01-S63048	September 27, 2001	October 30, 2001
01-S64396	September 18, 2001	November 15, 2001
01-S65775	October 9, 2001	December 17, 2001
01-S66005	November 30, 2001	January 7, 2002
01-S66132	October 11, 2001	December 18, 2001
01-S66346	October 15, 2001	January 25, 2002
02-B0007064	November 5, 2002	January 28, 2003
02-P28634	April 24, 2002	March 28, 2003
02-S66715	January 25, 2002	March 4, 2002
02-S66752	January 25, 2002	March 4, 2002
02-S67037	January 25, 2002	March 4, 2002
02-S67110	March 11, 2002	April 23, 2002
02-S67586	February 22, 2002	March 28, 2002
02-S67663	February 22, 2002	March 28, 2002
02-S67802	March 11, 2002	April 11, 2002
02-S67803	March 11, 2002	April 15, 2002
02-S69446	April 5, 2002	May 7, 2002
02-S69451	April 5, 2002	May 7, 2002
02-S71634	May 10, 2002	June 11, 2002
02-S71654	May 10, 2002	June 11, 2002
02-S72008	May 10, 2002	June 14, 2002
02-S72046	May 10, 2002	June 11, 2002
02-S72941	June 3, 2002	July 2, 2002
02-S73282	May 24, 2002	June 26, 2002
02-S73377	June 19, 2002	December 4, 2002
02-S73436	June 25, 2002	December 10, 2002
02-S74498	June 25, 2002	December 13, 2002
02-S76842	July 14, 2002	December 13, 2002

INFORMAL COMPLAINT NUMBER	DATE OF COMPLAINT	DATE OF CARRIER RESPONSE
02-S77060	August 23, 2002	December 13, 2002
02-S77061	July 19, 2002	December 10, 2002